UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

RTO/ISO Credit Principles and Practices	**)**	**Docket No. AD21-6-000**
Credit Reforms in Organized Wholesale Electric Markets	**))**	**Docket No. AD20-6-000**

OPENING STATEMENT
OF CHRISTOPHER J. POLITO

Good morning, Chairman Glick, Commissioners and Commission staff. My name is C.J. Polito, and I am partner with the law firm of Sidley Austin LLP. I am here today to express my own personal views, and I am not representing the interests of any particular client.

I appreciate the opportunity to serve as a panelist for this technical conference regarding RTO and ISO credit principles and practices. I would like to thank the Commission for arranging this important technical conference and for the opportunity to share perspective on credit issues facing the RTO/ISO markets today. With the experience over the past decade since Order No. 741 and relevant changes in the wholesale power markets, this dialogue is important for gathering the perspectives of interested stakeholders. This discussion is particularly relevant in light of the credit issues highlighted by last week's extreme cold weather event in the Midwest and Southern states.

In Order No. 741, the Commission attempted to maintain the balance between robust market participation and protecting markets from the risk of default. As the Commission recognized, if access to credit is overly restricted, competition in the RTO/ISO markets suffers because fewer entities are eligible to participate. On the other hand, if excess risk is tolerated and access to credit is too easy to obtain, then the wholesale power markets are susceptible to defaults, and market participants bear the cost of such defaults. This balance serves the Commission's goal of competitive wholesale markets, which results in just and reasonable rates.

Over the past decade, the organized wholesale electric markets have continued to develop their own individual credit practices through tariff revisions crafted through their stakeholder processes, subject to the minimum standards set in Order No. 741.[1] Even today, credit requirements are different between the various RTOs/ISOs because these markets offer different products and different risk tolerances. Nonetheless, as the Commission recognized in Order No. 741, "Because the activity of market participants is not confined to any one region/market and because the credit rules differ, a default in one market could weaken that participant and have ripple effects in another market. In this way, the credit practices in all ISOs and RTOs may be only as strong as the weakest credit practice."[2]

To ensure the competitiveness and efficiency of these markets, the following principles are critical with respect to minimum participation requirements and Know Your Customer protocols:

- **First, RTO/ISO credit policies and practices should be transparent.** Creditworthiness standards, security requirements, and the process for developing such credit standards should enable market participants of all sizes and types to understand the information required to demonstrate creditworthiness and to determine for themselves the financial security needed in order to participate in these markets.

[1] *See* 18 C.F.R. § 35.47.

[2] *Credit Reforms in Organized Wholesale Electric Markets*, 133 FERC ¶ 61,060, at P 3 (2010).

- **Second, minimum participation criteria should focus on protecting RTO/ISO markets from risks posed by undercapitalized participants or market participants that do not have adequate risk management procedures.** Minimum participation requirements should not create undue burdens for market participants and should be commensurate with a reduction in risk to the RTO/ISO markets. Such requirements would prevent thinly capitalized entities lacking basic risk management experience from creating a credit risk, which may lead to a potential disruption in the market.
- **Third, Know Your Customer protocols should allow RTOs/ISOs to better understand an applicant or market participant's financial condition and business risk profile.** While Know Your Customer protocols may not be purely formulaic because different participants present different types and levels of risk to the markets, these protocols must be clear so that all market participants can understand the policies. This analysis should focus on qualitative factors that assess the credit risks a party poses to the marketplace.

I look forward to the discussion. Thank you.

Respectfully submitted,

/s/

Christopher J. Polito
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005
Tel.: (202) 736-8568
Email: cpolito@sidley.com

Dated: February 26, 2021